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CYRUS R. VANCE, JR.

DISTRICT ATTORNEY

November 15, 2019

BY ECF

Honorable Alison J. Nathan
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Honorable Kevin Nathaniel Fox
United States Magistrate Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Heleen Mees v. City of New York, et al.*, 19 Civ. 7346 (AJN)(KNF)

Dear Judge Nathan & Judge Fox:

I am an Assistant District Attorney at the New York County District Attorney's Office and counsel for the DA defendants in the above-captioned matter. I write on behalf of all parties—plaintiff *pro se* Heleen Mees, the DA defendants, and the co-defendant City of New York—to respectfully ask that the Court narrow the scope of the confidentiality order that was entered on September 5, 2019 to cover only the “photographic evidentiary material” that was the subject of plaintiff's letter requesting confidential treatment of said photos. ECF 13 [Pl. Ltr.]; ECF 15 [Unsealing and confidentiality order].

This case arises from plaintiff's prosecution on harassment charges based on allegations lodged by her former boyfriend, Willem Buiter, that plaintiff had sent him nude photos. ECF 1 [Complaint] at ¶¶13-14, 25. On August 26, 2019, the DA's Office wrote to Judge Nathan requesting additional time to respond to the complaint and further requesting that Judge Nathan endorse an enclosed unsealing order that would permit the DA's Office to access the police, prosecution, Criminal Court, and Department of Corrections files. ECF 8. On September 5, 2019, a letter from plaintiff was posted to ECF wherein plaintiff stated that she had no objection to the unsealing order but requested that the photos be deemed confidential. ECF 13. The DA's Office and the City agree with plaintiff that the photos should not be publicized.

Also on September 5, 2019, Judge Fox endorsed the unsealing order submitted by the DA's Office with modifications. Among the modifications, Judge Fox ordered that records obtained via the unsealing order "shall be deemed confidential and the parties shall safeguard them from public dissemination." ECF 15 at 2. The order thus appears to render confidential the police, prosecution, Criminal Court, and Department of Corrections files in their entirety.

Yesterday, defendants filed a joint motion to dismiss. As supporting exhibits, defendants relied on documents that appear in the prosecution file and were filed in Criminal Court.¹ Defendants served the motion papers on plaintiff by mail, *see* ECF 18, but have not filed the papers on ECF due to the confidentiality order. Defendants have also provided plaintiff with copies of the motion papers by email, and the parties have conferred over email about the scope of the confidentiality order.

Plaintiff has authorized me to inform the Court that she did not intend to request that records other than the photos be kept on a confidential basis. Defendants agree that only the photos themselves should be kept from public dissemination. Accordingly, the parties jointly request that the September 5, 2019 order be modified to deem confidential only "photographic evidentiary material" that may appear in the records that are unsealed by virtue of the order.

If the Court is inclined to grant this request, defendants will proceed to file their motion papers on ECF. Otherwise, defendants respectfully request permission to file the supporting exhibits under seal.

The parties thank the Court for its consideration of this letter.

Respectfully submitted,

Elizabeth N. Krasnow/s

Elizabeth N. Krasnow

Assistant District Attorney

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¹ The exhibits do not include the photos.